



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

MEMORANDUM

DATE: August 21, 2013

TO: Circuit, District, Family and Municipal Court Judges and Staff

FROM: Court Liaisons; Kari Ferri, Lee Ann Gaspar, and David Handsor
Michigan Department of State

SUBJECT: 2011 Public Act 159 (SB 0495), 2012 Public Act 0498 (HB 5668), 2013 Public Act 36 (HB 4254)

Effective October 28, 2013, the Michigan Department of State will implement Public Act 159 of 2011, Public Act 498 of 2012 and Public Act 36 of 2013, amending 257.602b of the Michigan Vehicle Code.

MCL 257.602b(2) provides a person shall not read, manually type, or send a text message on a wireless 2-way communication device that is located in the person's hand or in the person's lap, including a wireless telephone used in cellular telephone service or personal communication service, while operating a commercial motor vehicle or a school bus on a highway or street in this state. A wireless 2-way communication device does not include a global positioning or navigation system that is affixed to the commercial motor vehicle or school bus.

A violation cited under MCL 257.602b(2), is a civil infraction, 2 points will be assessed, and is eligible for abstract of conviction and FCJ suspension. These convictions and suspensions shall be submitted to MDOS using offense code 3296.

MCL 257.602b(3) provides a person shall not use a hand-held mobile telephone to conduct a voice communication while operating a commercial motor vehicle or a school bus on a highway, including while temporarily stationary due to traffic, a traffic control device, or other momentary delays. This does not apply if the operator of the commercial vehicle or school bus has moved the vehicle to the side of, or off, a highway and has stopped in a location where the vehicle can safely remain stationary. "Mobile telephone" does not include a 2-way radio service or citizens band radio service. "Use a hand-held mobile telephone" means 1 or more of the following:

- (a) Using at least 1 hand to hold a mobile telephone to conduct a voice communication.
- (b) Dialing or answering a mobile telephone by pressing more than a single button.
- (c) Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position or restrained by a seat belt.

A violation cited under MCL 257.602b(3), is a civil infraction, 2 points will be assessed, and is eligible for abstract of conviction and FCJ suspension. These convictions and suspensions shall be submitted to MDOS using offense code 3297.

MCL 257.602b(2) & 257.602b(3) does not apply to an individual who is using a cellular telephone to do any of the following:

- Report a traffic accident, medical emergency or serious road hazard.
- Report a situation in which the person believes his or her personal safety is in jeopardy.
- Report or avert the perpetration or potential perpetration of a criminal act against the individual or another person.
- Carry out official duties as a police officer, law enforcement official, member of a paid or volunteer fire department, or operator of an emergency vehicle.

An individual who violates MCL 257.602b(2) & 257.602b(3) shall be ordered to pay a civil fine as follows:

- (a) For a first violation, \$100.00.
- (b) For a second or subsequent violation, \$200.00.

Also, MCL 257.319b provides that a violation 257.602b(2) or 257.602b(3) will be classified as a “serious violation”.

The Michigan Department of State *Court Manual*, and the offense code listing located on our web site at: http://www.michigan.gov/documents/OffenseCode_73877_7.pdf will be updated to reflect these changes.

If you have any questions, please contact Court Liaisons Kari Ferri (517) 636-0962, Lee Ann Gaspar (810) 762-0764 or David Handsor (517) 636-0129.